

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	:
	:
Gerard Pallipuram	: Attorney Ref.: 3599.PALM.PSI
	:
Serial No.: 09/826,733	: Confirmation No.: 6062
	:
Filed: April 4, 2001	: Art Unit: 2143
	:
FOR: ONE-TO-MANY DEVICE	: Examiner: Jeffrey C. Pwu
SYNCHRONIZATION USING	:
DOWNLOADED/SHARED CLIENT	:
SOFTWARE	:

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
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APPEAL BRIEF

This Appeal Brief is submitted in response to the Final Office Action, dated March 13, 2006, the Advisory Action, dated July 3, 2006, in support of the Notice of Appeal, filed August 2, 2006, and responsive to the Notification of Non-Compliant Appeal Brief mailed on October 5, 2006.

I. **REAL PARTY IN INTEREST**

The real party in interest in this appeal is Palmsource, Inc., the assignee of the entire right, title, and interest in the application.

II. RELATED APPEALS AND INTERFERENCES

Appellant is unaware of any related appeals or interferences.

III. STATUS OF CLAIMS

Claims 1-10 and 27-40 are pending in this application. Claims 11-26 have been canceled.

Claims 1-9 and 27-39 have been finally rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,073,177 to Hebel et al. (“Hebel”).

Claims 10 and 40 have been finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Hebel in view of U.S. Patent No. 6,636,873 to Carini et al. (“Carini”).

Claims 1-10 and 27-40 are the subject of the present appeal. These claims are reproduced in the Claims Appendix of this Appeal Brief.

IV. STATUS OF AMENDMENTS

All of amendments to date have been entered.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present invention is related to synchronization procedures between electronic devices (see specification at page 11, lines 20-21). According to the invention as recited in claim 1, a communication system includes a server device and a client device (see specification, at page 18, lines 9-10, page 18, line 24 through page 19, line 2, and 410, 100, 56, 58, 420 and 425 of Fig. 7). The server device may include information and client software, which includes

instructions for performing server-compliant synchronization with the server device (see specification, at page 6, lines 21-24, page 18, lines 9-14, and 412 and 414 of Fig. 7). The client device may be a device capable of performing data processing functions, such as, for example, a hand-held Personal Digital Assistant (PDA) device (100 of Fig. 7), a desktop computer (56 of Fig. 7), a laptop computer (58 of Fig. 7), a PDA located in a cradle (420 of Fig. 7), or a cell phone (425 of Fig. 7) (see specification at page 18, line 24 through page 19, line 2). The client device may establish a communication link with the server and may receive a copy of the client software from the server in response to the communication link being established (see specification, at page 6, lines 24-27, page 22, lines 6-14, 445 and 450 of Fig. 8, 510 and 515 of Fig. 9, 560 and 565 of Fig. 10, and 610 and 615 of Fig. 11). The client device may then use the copy of the client software to perform a data synchronization with the server device in order to obtain a portion of the information (see specification, at page 6, line 27 through page 7, line 1, page 22, line 22 through page 23, line 10, and 455 and 465 of Fig. 8, 520 and 530 of Fig. 9, 570 and 580 of Fig. 10, and 620 and 630 of Fig. 11). As a result of performing the data synchronization, the portion of the information on the client device and in the database of the server device are up-to-date (see specification, at page 19, lines 8-10).

According to the invention as recited in claim 27, a method includes maintaining by a first device (410 of Fig. 7), a database (412 of Fig. 7) and client software (414 of Fig. 7). The database includes information and the client software includes instructions for performing a data synchronization compliant with the first device (see specification at page 6, lines 21-24, and page 18, lines 9-14). A communication link is established between a second device (100, 56, 58, 420 and 425 of Fig. 7) and the first device (see 445 of Fig. 8, 510 of Fig. 9, 560 of Fig. 10, and

610 of Fig. 11). A copy of the client software is received at the second device from the first device in response to the communication link being established (see 450 of Fig. 8 and specification at page 22, lines 11-14, 515 of Fig. 9 and specification at page 24, lines 4-5, 565 of Fig. 10 and specification at page 25, lines 9-10, 615 of Fig. 11 and specification at page 26, lines 20-21). The copy of the client software at the second device is used to perform data synchronization with the first device to obtain a portion of the information included in the database (see 455 of Fig. 8, specification at page 22, lines 22-23, 520 of Fig. 9, specification at page 24, lines 6-8, 570 of Fig. 10, specification at page 25, lines 12-14, 620 of Fig. 11 and specification at page 26, lines 21-23). As a result of performing data synchronization, the portion of the information on the second device and in the database of the first device are up-to-date (see specification at page 19, lines 8-10).

The invention, as recited in claim 34, includes a medium having recorded thereon instructions for at least one processor (102, 103 and 104 of Fig. 6, specification at page 15, line 22 through page 16, line 7). The medium includes instructions for establishing a communication link with the device (see 445 of Fig. 8, 510 of Fig. 9, 560 of Fig. 10, and 610 of Fig. 11), instructions for downloading a copy of client software from a database to the device in response to the communication link being established, wherein the copy of the client software includes instructions for performing a data synchronization (see 450, 455 of Fig. 8 and specification at page 22, lines 11-14 and 22-23, 515, 520 of Fig. 9 and specification at page 24, lines 4-8, 565, 570 of Fig. 10 and specification at page 25, lines 9-14, 615, 620 of Fig. 11 and specification at page 26, lines 20-23). As a result of performing data synchronization, the portion of the information on the second device and in the database of the first device are up-to-date (see

specification at page 19, lines 8-10).

In some embodiments, the client device may erase the client software after the data synchronization is performed (see specification, at page 23, lines 3-6, and 460 of Fig. 8). The client device may also erase a portion of the information (from the database) (see specification, at page 25, lines 21-24, page 27, lines 5-8, 580 of Fig. 10, and 630 of Fig. 11). The client device may include a display screen for displaying information from the database (see specification, at page 13, lines 6-8, 105 of Fig. 6, and page 24, lines 14-15).

The communication system may further include multiple client devices, which may perform data processing functions (100, 56, 58, 420 of Fig. 7). The client devices may establish a communication link with the server device and may receive a respective second copy of the client software from the server device in response to the communication link being established between the second client device and the server device (see specification, at page 20, lines 22-25, and Figs. 8-11). The client devices may use the respective second copy of the client software to perform a data synchronization with the server to obtain a portion of the information (from the database) (see Figs. 7-11).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- A. Whether claims 1-9 and 27-39 are anticipated under 35 U.S.C. § 102(e) by Hebel (U.S. Patent No. 6,073,177); and
- B. Whether claims 10 and 40 are unpatentable under 35 U.S.C. § 103(a) over Hebel in view of Carini (U.S. Patent No. 6,636,873).

VII. ARGUMENT

A. The rejection of claims 1-9 and 27-39 under 35 U.S.C. § 102(e) as being anticipated by Hebel (U.S. Patent No. 6,073,177) should be REVERSED.

Claims 1-9 and 27-39 stand finally rejected under 35 U.S.C. § 102(e) as being anticipated by Hebel.

Claim 1 is representative of the group of claims including claims 1-9 and 27-39.

Under 35 U.S.C. § 102(e), a person shall be entitled to a patent unless “the invention was described in – (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under article 21(2) of such treaty in the English language.” According to MPEP 706.02(b), “A rejection based on 35 U.S.C. 102(e) can be overcome by: (A) Persuasively arguing that the claims are patentably distinguishable from the prior art.”

Claim 1 is directed to a communication system. The communication system includes, among other things, a first client device for performing data processing functions, the first client device for establishing a communication link with a server, for receiving a copy of client software from the server in response to the communication link being established, and for using the copy of the client software to perform data synchronization with the server to obtain a portion of information (included in a database).

On page 2 of the Final Office Action of March 13, 2006, the Examiner alleged that Hebel, at col. 4, lines 37-65 discloses or suggests establishing a communication link with a server, for receiving a copy of client software from the server in response to the communication link being established. The Examiner further alleged that Hebel, at col. 5, lines 15-34 discloses or suggests "TCP/IP Two-way Connectivity". However, the Office Action was completely silent with respect to Hebel or any other cited art disclosing or suggesting using the received copy of client software to perform a data synchronization with the server to obtain a portion of information (included in a database), as required by claim 1. Appellant submits that Hebel does not disclose or suggest using the client software received from the server to perform a data synchronization with the server to obtain a portion of information included in a database.

Hebel, at col. 4, lines 37-65, discloses:

Transmission Control Protocol/Internet Protocol (TCP/IP) is a well known standard where TCP controls the data transfer and IP provides the routing through hardware connections 15 between client workstations 11 and servers 13. The invention relies on the Berkeley compatible TCP/IP functions to implement with the hardware the core communications for connecting client workstations 11 to the server 13. Essentially, this protocol requires programs to have a 32-bit IP address and a 16-bit port number in order to provide connectivity. IP addresses resolve machine locations, and port numbers are used to resolve client and server process locations on the client workstation. At any one instance, the combined IP address and port number may be used to uniquely identify any client workstation 11 or server application.

The client workstations 11 and server 13 have three stages of operation--startup, event handling, and shutdown. The server 13, on startup, will query the host machine's IP address and write both the IP address and the user supplied port number into the database's access log file. The client workstations 11 on startup, will read the server specific IP address and port number from the same file as illustrated in FIG. 3. This is necessary for two reasons: First, there is only one server per database. Any attempt to start a subsequent server for the same project would fail, because the file is being accessed by the initial server. Second, this allows the client workstations to find the server, since the user can start the server on any workstation machine.

According to the above-cited portion of Hebel the client workstations and servers use the well-known TCP/IP protocol. A combined IP address and port number may be used to uniquely identify any client workstation application or server application. Client workstations and servers have three stages of operation - startup, event handling, and shutdown. At startup, client workstations read a server specific IP address and port number from the same file. This permits client workstations to find the server.

Appellant notes, however, that Hebel is completely devoid of any disclosure of using a copy of the client software (received via an established communication link with a server) to perform data synchronization with the server to obtain a portion of information (from a database), as required by claim 1. Even if all client workstations use copies of client software to perform data synchronization, a point which Appellant does not concede, Hebel does not disclose or suggest that a client device receives a copy of the client software from the server in response to the communication link being established and uses the copy of the client software to perform data synchronization with the server. Further, Appellant submits that a request from a client workstation to establish a connection using the IP address and port number from a file, as disclosed by Hebel, would only cause an attempt to establish the connection with an application on the server and would not cause the client workstation to receive a copy of an application that the client workstation would then use to perform data synchronization with the server, as required by claim 1.

Hebel, at col. 5, lines 15-34, discloses:

Within TCP/IP, two different classes of sockets exist--stream and datagram. Stream sockets provide two-way communications and require a connected session. They provide reliability for data transfer and guarantee integrity of the

data. Datagram sockets, however, provide only one-way communications. They neither ensure reliability in the data transfer nor guarantee integrity of data and do not require a connected session. For these reasons, the invention requires stream sockets.

Once a stream socket is setup, event processing can begin. Events include a client workstation 11 connection to the server 13, a client workstation 11 disconnect from the server 13, the server disconnect from a workstation client, and incoming messages to workstation clients 11 or the server 13. Standard techniques are used for handling connect and disconnect events, but a special technique described below is used for handling messages.

According to the above-cited portion of Hebel stream sockets provide reliable two-way communications and datagram sockets provide one-way communication with no guarantee of reliability or data integrity. Once a stream socket is established, event processing may begin. However, the above-cited portion of Hebel, as well as any other portion of Hebel, fails to disclose or suggest that a client device receives a copy of the client software from the server in response to the communication link being established and that the client device uses the copy of the client software to perform data synchronization with the server, as required by claim 1.

For the above-mentioned reasons, Hebel fails to disclose each and every feature of claim

1. In particular, Hebel fails to disclose:

a first client device for performing data processing functions, said first client device for establishing a communication link with said server, **for receiving a copy of said client software from said server** in response to said communication link being established, and for **using the copy of said client software to perform the data synchronization with said server to obtain a portion of said information** (*emphasis added*)

as recited in claim 1.

Accordingly, Appellant submits that claim 1 is patentably distinguishable from Hebel and respectfully requests that the rejection of independent claim 1 and dependent claims 2-9 be reversed. Independent claims 27 and 34 have features similar to those of claim 1 and are

patentably distinguishable from Hebel for at least reasons similar to those discussed with respect to claim 1. Therefore, Appellant respectfully requests that the rejection of independent claim 27, dependent claims 28-33, independent claim 34 and dependent claims 35-39 be reversed.

B. The rejection of claims 10 and 40 under 35 U.S.C. § 103(a) as being unpatentable over Hebel (U.S. Patent No. 6,073,177) in view of Carini (U.S. Patent No. 6,636,873) should be REVERSED.

Claims 10 and 40 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Hebel in view of Carini.

MPEP § 2142 states:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria.

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). See MPEP § 2144 - § 2144.09 for examples of reasoning supporting obviousness rejections.

With these principals in mind, Appellant submits that the Examiner failed to establish a *prima facie* case of obviousness. Independent claim 1, from which claim 10 depends, recites,

among other things, a first client device for performing data processing functions, the first client device for establishing a communication link with a server, for receiving a copy of client software from the server in response to the communication link being established, and for using the copy of the client software to perform data synchronization with the server to obtain a portion of information (from a database). As discussed above, claim 1 is not anticipated by Hebel because Hebel fails to disclose or suggest using a copy of client software, received from a server in response to a communication link being established, to perform a data synchronization with the server to obtain a portion of information (included in the database), as required by claim 1.

Carini discloses methods, systems and network architectures for synchronizing mobile computing devices with a remote database (Carini, at col. 1, lines 9-11). According to the Abstract of Carini, a replication database is mapped to and maintained as a subset image of a remote enterprise database through a bi-directional replication process. A mobile device gateway server, coupled to the replication database, includes a concentrator configured to selectively receive replication data from the replication database, transform the receive replication data into a format native to the mobile device, and selectively send the received and transformed replication data to the mobile device. The concentrator also receives mobile device data, and transforms and sends or receives mobile device data to the replication database.

Appellant submits that Carini also fails to disclose or suggest using a copy of client software, received from a server in response to a communication link being established, to perform a data synchronization with the server to obtain a portion of information (included in a database), as required by claim 1. Therefore, Hebel and Carini, whether taken separately or in

any combination, fail to disclose or suggest all of the features required by claim 1. For at least these reasons, Appellant submits that the Examiner failed to establish a *prima facie* case of obviousness and respectfully requests that the rejection of claim 10 be reversed.

Claim 40 depend from claim 34, which has features similar to those of claim 1. Appellant submits that the Examiner failed to establish a *prima facie* case of obviousness with respect to claim 40 for at least reasons similar to those discussed with respect to claim 10. Therefore, Appellant submits that the Examiner failed to establish a *prima facie* case of obviousness with respect to claim 40 and respectfully request that the rejection of claim 40 be reversed.


CONCLUSION

In view of the foregoing arguments, Appellant respectfully solicits the Honorable Board to reverse the Examiner's rejection of claims 1-9 and 27-39 under 35 U.S.C. § 102(c) and claims 10 and 40 under 35 U.S.C. § 103(a).

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-3102 and please credit any excess fees to such deposit account.

Respectfully submitted,

Date: October 31, 2006

By: 

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VIII. CLAIMS APPENDIX

PENDING CLAIMS

1. A communication system comprising:

a server device comprising a database and client software, said database comprising information and said client software comprising instructions for performing a data synchronization compliant with said server; and

a first client device for performing data processing functions, said first client device for establishing a communication link with said server, for receiving a copy of said client software from said server in response to said communication link being established, and for using the copy of said client software to perform the data synchronization with said server to obtain a portion of said information, wherein:

as a result of performing the data synchronization, the portion of the information on the first client device and in the database of the server are up-to-date.

2. A communication system as described in Claim 1 wherein said first client device is also for erasing said client software after said data_synchronization is performed.
3. A communication system as described in Claim 1 wherein said first client device comprises a display screen and wherein said first client device is also for displaying said portion of said information on said display screen.
4. A communication system as described in Claim 1 wherein said first client device is also

for erasing said portion of said information on the first client device.

5. A communication system as described in Claim 1 wherein said data synchronization comprises a query command.

6. A communication system as described in Claim 1 and further comprising a second client device for performing data processing functions, said second client device for establishing a communication link with said server, for receiving a second copy of said client software from said server in response to said communication link being established between said second client device and said server, and for using said second copy of said client software to perform a second data synchronization with said server to obtain a second portion of said information, wherein:

as a result of performing the second data synchronization, the second portion of the information on the second client device and in the database of the server are up-to-date.

7. A communication system as described in Claim 6 wherein said second client device is also for erasing said second copy of said client software after said second data synchronization is performed with said second client device.

8. A communication system as described in Claim 6 wherein said second client device comprises a display screen and wherein said second client device is also for displaying said second portion of said information on said display screen.

9. A communication system as described in Claim 1 wherein said first client device is a portable computer system and wherein said server is a web server.

10. A communication system as described in Claim 1 wherein said first client device is a wireless telephone device and wherein said server is a web server.

27. A method comprising:

maintaining, by a first device, a database and client software, the database comprising information and the client software comprising instructions for performing a data synchronization compliant with the first device;

establishing a communication link between a second device and the first device;

receiving a copy of the client software at the second device from the first device in response to the communication link being established; and

using the copy of the client software at the second device to perform the data synchronization with the first device to obtain a portion of the information, wherein:

as a result of performing the data synchronization, the portion of the information on the second device and in the database of the first device are up-to-date.

28. The method of claim 27, further comprising:

deleting the copy of the client software after performing the data synchronization.

29. The method of claim 27, further comprising:
displaying the portion of the information on a display screen of the second device.
30. The method of claim 27, wherein using the copy of the client software at the second device to perform the data synchronization with the first device to obtain a portion of the information further comprises:
executing a query command to obtain a copy of a document.
31. The method of claim 27, further comprising:
establishing a communication link between a third device and the first device;
receiving a second copy of the client software at the third device to perform a second data synchronization with the first device;
using the second copy of the client software at the third device to perform the second data synchronization with the first device to obtain a second portion of the information, wherein:
as a result of performing the second data synchronization, the second portion of the information on the third device and in the database of the first device are up-to-date.
32. The method of claim 31, further comprising:
deleting the second copy of the client software after performing the second data synchronization.
33. The method of claim 27, wherein the first device is a server device and the second device

is a portable processing device.

34. A medium having recorded thereon a plurality of instructions for at least one processor, the medium comprising:

instructions for establishing a communication link with a device;

instructions for downloading a copy of client software from a database to the device in response to the communication link being established, the copy of the client software including instructions for performing a data synchronization;

instructions for responding to communications from the device when the device is executing the instructions to perform the data synchronization to obtain a portion of information from the database, wherein:

as a result of executing the data synchronization, the portion of the information on the device and in the database are up-to-date.

35. The medium of claim 34, further comprising:

instructions for deleting the copy of the client software after performing the data synchronization.

36. The medium of claim 34, further comprising:

displaying the portion of the information on a display screen of the device.

37. The medium of claim 34, wherein the instructions for executing a data synchronization further comprises:

a query command to obtain a copy of a document.

38. The medium of claim 34, further comprising:

instructions for establishing a communication link with a second device;

instructions for downloading a second copy of the client software to the second device in response to the communication link being established with the second device, the second copy of the client software including instructions for performing a data synchronization;

instructions for responding to communications from the second device when the second device is executing the instructions to perform a second data synchronization to obtain a second portion of information from the database, wherein:

as a result of executing the second data synchronization, the second portion of the information on the second device and in the database are up-to-date.

39. The medium of claim 38, further comprising:

instructions for deleting the second copy of the client software after performing the second data synchronization to obtain the second portion of the information from the database.

40. The medium of claim 34, wherein the first device is a server device and the second device is a portable processing device.

IX. EVIDENCE APPENDIX

None

X. RELATED PROCEEDINGS APPENDIX

None